

# Statement

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## Questions That Are Being Asked

### **(1) Why are there no students on the Hearing Committee?**

The complaining students did not request the appointment of students to the Hearing Committee when it was formed with their approval and that of Professor Anderson on December 5th. The students approved the name of the five faculty members. It is the rule that when a Professor or other professional is charged with a breach of professional ethics the evidence in his case is examined by his professional peers.

### **(2) Why is there no negotiation regarding the Hearing Committee?**

In fact, there were negotiations on the composition of the Hearing Committee up to four days before the start of the Hearings on January 26th. But by January 17th the complaining students began to make repeated non-negotiable and unilateral demands which violated the spirit in which the Committee had been formed on December 5th and barred successful negotiations. Between January 17 and January 26 the students who are accusing Professor Anderson insisted on the appointment of Mr. Leo Bertley to the Hearing Committee without Professor Anderson's approval and named replacements for Professor Adamson, Davis and Bayne before they had agreed to resign. Thus, the complaining students were the first to violate the spirit of the December 5th agreement. Faced with this refusal to proceed reasonably, the University had no choice but to draft Professors Macdonald and Knelman so that the hearings could proceed and the facts for which all parties were clamouring could be brought to light.

### **(3) Why were the police not called into the University when the students occupied the Computer Center?**

The University prefers to settle its problems within the University community whenever possible. Much more work needs to be done within our community to develop a consensus about developments that justify recourse to the police. Until such a policy is agreed upon, the University will call the police when members of our community are faced with direct threat or intimidation or when there is a strong possibility of property damage.

### **(4) Why did the University use the security measures which they did on Sunday, January 26th, the first day of the hearings?**

The University had good reason to expect an attempt to occupy parts of the Hall Building by several elements who focused their attention on magnifying the

Anderson case. The responsible administrative officers of the University wished to deny these elements that opportunity, and forestall efforts to disrupt an examination of the facts in the Anderson case.

### **(5) Is there racial discrimination in the admission of students to Sir George and in other aspects of our University?**

The charge of discrimination on the part of the Admissions Office is totally false. In the first place, there is no racial or ethnic quota determining admissions. Secondly, the percentage of applicants admitted from Canada and the West Indies is almost identical. In 1968 we accepted 34% of applicants from Canada and 36.4% applicants from the West Indies. In 1967, we admitted 46 West Indian students (out of 147 who applied), of whom 27 accepted the invitation to attend Sir George. In 1968, we admitted 38 West Indian students (out of 104 who applied), of whom 24 decided to attend. The names of all West Indian students who were accepted by Sir George and chose not to attend will be available for checking in the Dean of Students office. Many West Indian students have graduated from Sir George and the University hopes to enroll many more in the future. This University has not and never will tolerate racial discrimination in any facet of its activities.

### **(6) Is there no alternative to the present Hearing Committee?**

The students who have accused Professor Anderson of racial discrimination can participate in the hearings without prejudicing their right to question its composition through appeal. Acting Principal Clarke has declared his willingness to appoint three eminent Canadians from the University to constitute an Appeal Committee. Under a selection procedure frequently used under similar circumstances elsewhere, the complaining students and Professor Anderson could each be asked to appoint a representative. Their representatives could then meet to negotiate the composition of a three-man Appeal Committee. This committee would be empowered to inquire into the composition and recommendations of the present Hearing Committee. Its members would have to be acceptable to both the complaining students and Professor Anderson. There is one more remote alternative to the present Hearing Committee. If Professor Anderson and the complaining students were able to agree on the membership of a new hearing committee, the University would be willing to follow their wishes in the interests of justice.



## SGWAUT Council's Commissioned Paper

# The Status of the Hearing Committee

## Origin of the Hearing Committee

For the past several decades, Canadian university teachers have been engaged in the attempt to achieve recognition of a certain principle. This principle is that, when a faculty member stands accused in a manner affecting his academic or professional competence, his guilt or innocence should be judged by an impartial committee of his peers.

It is important to remember that this principle evolved out of conflict with the governing bodies of universities, and their administrators. Neither the principal or president of a university, nor the chairman of its board of governors should be allowed to arbitrarily and privately dismiss a member of the academic community.

This principle of "judgement by peers" began to win general acceptance only in the 1960's, as the bargaining power of faculty increased, with a proportionate decrease in the traditional power of boards and administrations.

It is important to notice also that the faculty principle of judgement by peers evolved and gained general acceptance prior to the days of what is now referred to as "Student Power", and student involvement. The principle of student participation is a relatively recent one; and it has made inroads only in the second half of this decade.

Interested persons should bear these facts in mind as they read the document entitled, "Procedure for Dealing with Complaints Against Faculty Members". This document was drawn up in 1968 by a joint committee consisting of members of the administration and members of the Sir George Williams Association of University Teachers (SGWAUT). The document in question was approved at a meeting of the executive Council of SGWAUT on December 4, 1968. It is necessary to quote this proposed Procedure in full:

This proposal is based upon two main premises:

1) the academic deans are responsible for maintaining the quality and standards of the members of their faculty.

2) the deans should not be both Prosecutor and 'judge' in dealing with faculty members charged with unsatisfactory performance.

The following procedure is suggested in dealing with a complaint about a faculty member.

1) The first eight stages of procedure shall be treated in a confidential manner, if possible.

2) A complaint may originate with anyone including the dean of the appropriate faculty if he believes he needs to act to maintain standards.

3) The complaint should be available in writing to the appropriate dean, and should under no circumstances be duplicated or circulated, except to the accused.

4) The dean should investigate the complaint and exercise judgement as to the seriousness of the complaint; and decide either to drop the matter, or to deal with it informally from his office, or to invoke the full scale process. The dean may first attempt to deal with the complaint informally and invoke the full scale process later if he then deems it necessary. (If the full scale process is chosen, the accused may elect a full hearing, or he may stop the procedure at any time by voluntarily resigning).

5) If procedure is required, the dean should inform the subject of the complaint that he is intending an investigation, and the appointment of an "investigating committee".

6) The dean also informs the Vice-Principal (Academic) when he decides an investigation is needed. The Vice-Principal may then choose to follow the suspension procedure outlined in tenure policy.

7) The dean appoints three members of the Faculty to solicit and consider written submissions only regarding the complaint. This "investigating committee" will consider the validity of the dean's judgement in terms of the validity of the complaint. They will recommend to the dean whether or not a formal charge should go forward to a full hearing. It should be clear that the purpose of this inquiry is not to judge the guilt of the accused but only to review the dean's decision.

8) The "investigating committee" reports as to whether or not the dean's decision is valid. If not, the matter is dropped, the record destroyed, in the presence of the person against whom the complaint has been lodged, and the Vice-Principal so informed.

9) If a hearing seems justified, the dean asks Faculty Council to appoint a "hearing committee" of three faculty with tenure. The defendant is invited to be present and heard during the selection of the hearing committee. The dean and the faculty member may choose to present their own cases, or they may name a representative to present their cases, from any source of their choice. Only the three members of the hearing committee may vote upon any final recommendation.

10) All hearings and deliberations shall be open unless the accused requests that they be held in camera.

11) There shall be a complete transcript of the entire proceedings of the committee kept at the expense of the University.

12) The defendant is to be allowed to be present during every part of the proceedings and to have free and rapid access to transcripts.

13) All proceedings shall follow a 'Rules of Evidence' which is available to all parties before the event. The 'Rules of Evidence' should be based on legal practice.

14) The findings and recom-

mendation, based upon the committee's report, for implementation by the Vice-Principal (Academic).\*

14) The findings and recommendation of the hearing committee are made to the dean for his action.

15) The dean forwards his final recommendation, based upon the Committee's report, for implementation by the Vice-Principal (Academic).\*

16) The defendant may appeal any such decision to the Principal who will thereupon create a review committee as follows: one nominee from S.G.W.A.U.T., one nominee from the Vice-Principal (Academic), and one nominee agreeable to both. The University ombudsman (if one exists) will be present at all proceedings of review committee.

17) The review committee shall proceed as it sees fit.

18) The decision of this review committee shall be accepted for implementation by the University.\*

\* If the decision for termination of a continuous appointment or for dismissal of a faculty member prior to the expiration of a fixed term appointment, tenure procedures must be invoked. Nothing in the procedures shall be interpreted as prejudicing the rights of the accused under applicable tenure procedures.

Approval by SGWAUT Council did not, however, make the document binding on the University community. The Procedures had

## by Dr. Stanley French Professor of Philosophy

then to be forwarded for approval to the University Council, the highest academic governing body at Sir George Williams University. Even then, these Procedures would have to be ratified by the (in law) supreme governing body of the University, the Board of Governors.

The Procedures as approved by SGWAUT Council appear on the agenda of the meeting of the University Council held on Friday, December 20, 1968. During the subsequent discussion of this proposal by University Council, a variety of points was raised. For example: it was asked whether the "open" hearings would be open to anyone and everyone, and whether, if the hearings and deliberations were "open", did this mean participation or non-participation on the part of those in attendance? "It was agreed that the word 'open' should be interpreted as 'open' to the University community on a non-participation basis". In the end, it was moved and seconded "that this proposed 'Procedure for Dealing with Complaints Against Faculty Members' be approved in principle and referred back to the Joint Committee for amendment in the light of the points made and agreed upon at this meeting". This motion was carried.

Thus, the procedure that were urgently required for a proper handling of the charges against Professor P. Anderson were approved only "in principle" by the University Council, and referred back to their source for amendment.

There this matter lies. Can one say that these Procedures are now a formal part of the constitution of Sir George Williams University? I suspect not.

## Formation of the Hearing Committee

Although the first known stirrings of what is now referred to as the Anderson affair apparently took place sometime in February 1968, the SGWAUT Procedures and the Hearing Committee do not emerge as positive factors until December 5, 1968.

On this date, the following relevant events took place. Here I quote from a document entitled **Chronicle of Events: December 5**

1. Morning: A Black student visits Dean Madras and demands that Professor Anderson be removed from the faculty.

2. Later in the day, Black students visit the Principal, Robert Rae, in his office in the Norris Building and demand the immediate dismissal of Professor Perry Anderson. Principal Rae claims no knowledge of their previous accusations and is unable to contact Professor MacLeod or others who might bring him up to date. Principal Rae refuses to dismiss Professor Anderson without due process.

3. The Principal and the Black students are next seen by witnesses on the 12th floor of the Hall Building looking for Professor MacLeod. While the Principal went to search for Professor MacLeod, one of the Black students found Dr. MacLeod speaking with Professor Anderson. Dr. MacLeod and Professor Anderson joined the Black students in Dr. MacLeod's office, awaiting the return of Principal Rae.

4. Principal Rae meanwhile informs the Council of the Sir George Williams Association of University Teachers of the Black students' demand for Professor Anderson's summary firing. The Council informs Principal Rae of the proposed "Procedure for Dealing with Complaints Against Faculty Members" and delegates Professor Michael Marsden, President of S.G.W.A.U.T., and Professor Taylor Buckner, to bring the document to the Black students' attention as possible means of introducing due process for an investigation of the charges against Professor Anderson.

5. While Professors Marsden and Buckner attempt to explain the procedure to the students, Professor Davis arrives and establishes communication with the students.

6. Professor Marsden then visits with Vice-Principal D. B.

Clarke, who has assumed responsibility at Principal Rae's request, and proposes that a hearing process be instituted, conforming, in so far as possible, with the procedure recommended by S.G.W.A.U.T. Vice-Principal Clarke agrees and proposes five faculty members to comprise the Hearing Committee. Professor Davis brings the five names to the students in Dr. MacLeod's office. The students accept the formation of a hearing committee. However, they ask to substitute Professors Marsden and Menon for two of the professors on the original list.

7. Vice-Principal Clarke, the Black students, and Professor Anderson agree to the revised committee membership, namely, Professor A. Adamson (Chairman), C. Bayne, C. Davis, M. Marsden and P. Menon.

8. Professor Marsden tells Vice-Principal D. B. Clarke that under the proposed S.G.W.A.U.T. procedure the Committee must be appointed formally by the Council of the Faculty concerned (on other words, the Science Faculty Council); that complaints must be available in writing before the investigation proceeds; and that Vice-Principal Clarke should try to conform as much as possible to that procedure.

9. It is to be noted that:

a) the proposed S.G.W.A.U.T. procedures include no provision for consent by the concerned parties on questions of procedure, including the naming of the committee;

b) none of the parties involved on December 5 entered into a formal written agreement requiring mutual consent for the naming of the Hearing Committee or its procedures;

c) however, in accepting the changes in the committee membership suggested by the Black students and in consulting Professor Anderson about the personnel changes, a precedent may have been set leading the parties to believe that their approval would be sought at each stage of the process.

10) Vice-Principal Clarke accepts Professor Anderson's request to be temporarily relieved of his teaching duties.

Once again I quote from the **Chronicle of Events:**

**December 6th:** Emergency meeting of Science Faculty Council to inform members of the events of the previous day and to ratify selection of the Hearing Committee and its membership. The secretary of the Council was absent, and informal minutes were kept by the chairman, Dean Madras.

**December 9th:** Members of Hearing Committee write letter to Vice-Principal Clarke requesting his assurance that the Committee has authority and the confidence of the administration.

**December 10th:** Vice-Principal Clarke replies by letter assuring the Committee of his backing and confidence.

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## Status...

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### Status of the Hearing Committee: Law and Justice

Is the Hearing Committee legally constituted? — this is the question that is being asked by members of the University community, not to mention the general public.

In my view, this question is easily answered by reference to the Act of Incorporation of Sir George Williams University, as first enacted in 1948 by the Legislative Assembly of the Province of Quebec. Article 8 of this Act reads, in part, as follows: "The Board of Governors of the Corporation and their successors in office shall, subject to the provisions of this Act and insofar as the by-laws of the Corporation may provide, administer the affairs of the Corporation in all things..."

What this means is that the Board of Governors, acting in and through the Principal, has the legal right and the legal obligation to settle the charges against Professor Anderson by any method that it may deem fit and appropriate. The actions of Acting Principal D.B. Clarke and Vice-Principal J. O'Brien are constitutional, have legal authority, by virtue of the mandate given to the Board of Governors by the Province of Quebec.

Because the Procedures have not been approved by University Council (except "in principle"), or by the Board of Governors, the Procedures have no legal status in the University. The ratification of the Hearing Committee and its membership by the Science Faculty Council at an emergency meeting on December 6, 1968, was not sufficient, presumably, to provide the legal status that is in question here. The Hearing Committee derives its legality, not from the acts of the academic bodies such as the S.-G.W.A.U.T. Council, the Science Faculty Council, and the University Council, but rather from the exchange of letters between the Hearing Committee and (then) Vice-Principal Clarke on December 9 and 10, 1968, in which the members of the Hearing Committee request from Vice-Principal Clarke his assurance that the Committee has authority to proceed, and the confidence of the administration, and Vice-Principal Clarke's reply on December 10, in which he states that the Hearing Committee has his backing and confidence.

It is also worth noting that in the Tuesday, January 28, 1969, issue of *The Georgian*, the following statement appears with reference to the second emergency meeting of Science Faculty Council on December 12, 1968: "The purpose of this meeting, we later discovered, was to disband the legal Committee set up by the Acting Principal Douglass Burns Clarke, and to take punitive measures against the Black students involved." The issue of *The Georgian* in which this statement appears was "prepared by members of the Black Students' Association in conjunction with the staff of *The Georgian*". Although the article in which this statement appeared is unsigned, presumably we may interpret this statement as a recognition on the part of the

Black students that the Hearing Committee was, in their opinion, a legally constituted body at the time of its formation in December 1968.

If the question of the legality of the Hearing Committee is easily settled, the question whether the Committee has been justly constituted is far more complex.

It seems reasonably clear that, at the inception of the Hearing Committee on December 5th, 1968, "in accepting the changes in the Committee membership suggested by the Black students and in consulting Professor Anderson about the personnel changes, a precedent may have been set leading the parties to believe that their approval would be sought at each state of the process" (Chronicle of Events). Again, in an entry dated January 10, the Chronicle of Events makes the following statement: "Professor Marsden submits his resignation from the Hearing Committee to Dean Madras, in the Dean's capacity as Chairman of the Science Faculty Council. Professor Marsden says he wished to be free as President of SGWAUT to initiate a review of the responsibilities of faculty, forms of prejudice, and the role of administration in such affairs. He urges that if a replacement is to be found for him, such replacement 'should be acceptable to the students and to Professor Anderson in the spirit of the original agreement on December 5th'."

In other words, the adoption at this time of the relevant portions of the SGWAUT Procedure, in which the principle of "judgment by peers" is enunciated, also involves acceptance of the ostensibly conflicting principle of student consultation and agreement. This at-the-time unrecognized conflict of principle subsequently comes to play an increasingly important and confusing role in the series of events.

To illustrate this point, I shall quote from the document entitled, "Black Students Statement of Position", distributed by the Black students to the public on the morning of January 26, 1969, the day that the official hearing began. "The composition of this hearing committee has been unilaterally decided upon by the Administration; a decision clearly not in conformity with previous agreed upon procedure, that the members of any hearing or investigating committee be agreeable to all parties concerned." In the same document, the Black students demand that "the Administration arrange a meeting of themselves, Professor Anderson and ourselves to settle the composition of the Hearing committee, the procedures under which any hearing will be conducted, and the time of such a hearing".

At this point, I must pause to express regret that the original agreement reached on the evening of December 5, 1968, between the Black students, Professor C. Davis, Professor Marsden, Professor Buckner, and Vice-Principal Clarke was not written down, and signed by those present.

In considering the question of justice, then, we must ask ourselves whether a genuine attempt was made by those involved to act upon the informal agreement to consult with the concerned parties, to seek the active

agreement of all concerned parties?

Clearly, there were instances where the Hearing Committee, Acting Principal Clarke and Vice-Principal O'Brien did attempt to achieve such consultation and agreement. On December 13th, there was a meeting in Acting Principal Clarke's office with the Black students, and Mr. David Schwartz, a legal representative of the University. On December 16, Acting Principal Clarke wrote a letter to the Hearing Committee stating that Dean Madras had been given until January 3, 1969 to produce written and signed charges. Acting Principal Clarke also stated that the Black students had agreed to produce written charges by January 11th, if such charges were not forthcoming from Dean Madras.

On January 10, a meeting was held between Acting Principal Clarke, the Black students and Mr. Michael Sheldon (Assistant to the Principal). On January 15, the Hearing Committee received a memorandum to record, written and signed by Mr. Michael Sheldon, describing his impressions and those of Acting Principal Clarke regarding the above-mentioned meeting on January 10. According to this memorandum, "the Black students now take the position that a Hearing Committee consisting solely of faculty members is wrong, but admit that they agreed to such a Committee earlier; Acting Principal Clarke and the students state the view that if lawyers are present at the hearing, they should not be allowed to speak for interested parties. The Acting Principal comments on the kind of procedures the Committee might wish to lay down, but a student points out that such opinions are a matter for the Hearing Committee, which can speak for itself".

In a letter dated January 15, 1969, to the Hearing Committee, Acting Principal Clarke stated that (a) Professor Marsden has tendered his resignation from the Committee, and (b) that he will approve a replacement nominate by the Hearing Committee, and approved by Professor Anderson and the Black students.

On January 16, 1969, the Black students presented a list of demands to the Chairman of the Hearing Committee, Professor Adamson. Professor Adamson agreed with the Black students to arrange a meeting with Acting Principal Clarke, the Hearing Committee, and the Black students to discuss these new conditions. On January 17, the Black students informed Professor Adamson that Mr. Leo Bertley is on the Hearing Committee; yet they had never sought Professor Anderson's approval for Mr. Bertley's appointment.

On January 18th, 1969, Professor Adamson wrote a letter to Acting Principal Clarke in which he stated that the Committee has agreed on Professor Knelman as a replacement for Professor Marsden, and that Acting Principal Clarke should contact both parties to obtain their consent.

The above chronicle of events is not intended to be exhaustive, but it does show that from December 5, 1968 through January 18, 1969, both the Hearing Committee and the administration were trying very conscientiously

to guarantee mutual consultation with all parties concerned. This attempt to maintain communication and consultation continued on January 20, when Professor Adamson invited the complainants to attend a hearing. A similar invitation was sent out to Professor Anderson and his solicitor. Professor Anderson and his solicitor met with the Hearing Committee during the afternoon of January 20, but the Black students did not appear.

The Hearing Committee issued a second invitation to the Black students, inviting them to a meeting on January 21st. Three of the complainants did appear at this meeting; but when the students were informed of the agreement of the previous day between the Hearing Committee, Professor Anderson and his solicitor, the Black students departed from the meeting in anger.

There is unequivocal evidence that from December 5, 1968 through January 1969, almost to the time of the hearing, sincere attempts were being made by all concerned to consult and co-operate. It is also evident that, at some point on or about January 17, 1969, the confidence of the complainant Black students in the Hearing Committee, and those associated with it, began to break down. I regret that I do not know what were the immediate causes of this breakdown in confidence.

### Conclusions

When one considers this collection of facts, it is clear that there is no simple and straightforward conclusion with respect to the question of justice. The answer is not self-evident.

One mitigating circumstance, for all parties, is that events moved more rapidly than the procedures required to deal adequately with them. For example: if in 1967, say, the "Procedure for Dealing with Complaints against Faculty Members" had been ratified by all University bodies, then the unfortunate events of recent weeks might never have occurred. Here, no one is at fault.

The hearing is scheduled for January 26. Two of the original members, Professors Bayne and Davis, inform the Chairman of the Committee and Acting Principal Clarke on January 22nd that they feel an obligation to resign from the committee. The remaining members of the Hearing Committee recommend to Acting Principal Clarke and to Vice-Principal O'Brien that (a) Professors Bayne and Davis be replaced immediately, and (b) the planned Sunday hearing (January 26th) go on as scheduled. The desire on the part of the administration to see justice done with all due haste led to the determination to proceed with the hearing, already months overdue, as quickly as possible. The January 25 letter from Acting Principal Clarke to Professor Adamson formally appointing Professors F. Knelman and J. Macdonald to the Hearing Committee must be viewed in this light.

The complainant students reiterate their earlier demand that a Committee consisting entirely of faculty members from within the Sir George Williams University community is unsatisfactory. Should the hearing scheduled for Sunday, January

26th proceed as scheduled with the addition of two local faculty members to the Hearing Committee (roughly in accordance with the SGWAUT Procedures, and the legal responsibility of the Principal and the Vice-Principal), or should the hearing be postponed indefinitely until new agreements can be reached?

It is my considered opinion that the motives lying behind the decision to proceed as scheduled, namely, to see justice done without further delay, were good and sufficient.

The Black students, on the other hand, had come to suspect the motives and behaviour of the Hearing Committee and the administration. Throughout the days prior to the hearing, this mistrust escalated. How this suspicion arose, and whether there was just cause for it, I do not know. Perhaps it is sufficient to realize that such mistrust had emerged, thus colouring subsequent decisions and events.

It is my view that coincidence, chance, lack of foresight, the use of informal (and therefore no longer adequate) procedures, particularly in April and May of 1968, the rapidity of events, the desire to see justice done — all play a part in this unhappy story.

I am convinced that Acting Principal Clarke, Vice-Principal O'Brien and the members of the Hearing Committee (past and present) are honourable men. I believe that the actions of these people have been, without exception, a result of their desire to do justice, to see justice done, and to have justice clearly apparent to all observers.

On the other hand, I have no good reason to suspect the integrity of the complainant students. I am prepared to believe that they too are honourable. Clearly, when one attempts to look at the series of events from the Black point of view, one understands their interpretation, even though one may not agree with it.

I do not wish to imply that the Black interpretation is simply an interpretation. The Black students did not receive formal or informal notice of Dean Madras's findings after the May 5, 1968, hearing. For whatever reasons, there were occasions when the complainants were not consulted, in spite of promises that they would be, and in spite of sincere attempts to consult with them. Their desire to have one or more students on the Hearing Committee, though clearly an afterthought, is not unreasonable, especially to those who accept the principle of student participation. Nor is their subsequent wish to have the Hearing Committee consist of people from outside the University community an unreasonable one. Although this too is an afterthought, it was no doubt a consequence of what I have called, for want of a better phrase, the emergent Black point of view.

In writing this opinion, my hope has been that those who have been making hasty judgments will now come to grips with the facts. Although there is no question about the legality of the Hearing Committee, the question of its morality is less clear.

In trying to evaluate the status of the Hearing Committee from the point of view of justice, I

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# Dr. O'Brien Addresses the Faculty

**The following is the transcribed record of an address given by the Vice Principal (Academic) of Sir George Williams University, Dr. John W. O'Brien, to a special meeting of Faculty on Saturday, February 1, 1969.**

Before I begin on the main areas that I want to emphasize this afternoon, there are two points, subsidiary to my main message but important in their own right, that I would like to comment on. One is the question of why a situation like the Anderson affair should go on for several months and on December the 5th, when the present chapter opens, still be in such a situation?

On this, I'm afraid, at this point, I can say very little. I was not Vice-Principal during any of the months involved at that stage and since I have become involved in the Anderson affair, I have been sufficiently fully occupied to have no time to go back into that particular question; but I grant that it is an important question.

The second point is the question, why the Mount Royal Hotel? The answer to that is fairly simple: we are not, in this University, organized to cope with events like those of the past days because they have not been part of our past experience. In order to cope with them, in a purely administrative sense, requires work around the clock and requires a location. It so happens that in this University we are relatively short of space; we have no space on our own premises which, at a moment's notice, could be converted and used for this particular kind of purpose. This is the main reason.

For those who feel that operating from the Mount Royal Hotel leads to a dissociation from the University, I would suggest two things; this is not a matter that concerns me, I don't feel that I have been dissociated from the events of the University in the past week. First, there is enough communication to know what is going on, and I think, if we pause to think, communication between the Norris and the Hall buildings is not particularly different in its nature than communication between another building in the same downtown area, and the Hall building. As soon as we are not all in exactly the same place there is a communication problem, I will grant, but the Mount Royal Hotel location doesn't make it any different than if we were on University premises.

And if there is some disadvantage, there is some advantage, in being at a certain distance from these events. There has never been any point in these days but that 99% of the University has been operating normally, and under complete control. Things may, at a certain point, be even-ful in this auditorium, or in the Computer Centre, or somewhere else, and if one is right in the midst of those events it may appear that the system is shuddering noticeably. But there are other parts of this same building that scarcely notice what is going on at the time. So for these reasons I suggest to you that any suggestion that the fact that a certain number of people have been in the Mount Royal Hotel implies that they are any less connected with the events of the University, or any less able to deal with them, is not so.

I would now like to come to the main message, two or three messages, in fact, that I'd like to bring to you this afternoon. This has been a confusing week, especially confusing, I'm sure, to people who have found it difficult to get access to the latest information, or to a complete interpretation of what is going on. But rather than try to give a resumé of events, which has in any case been well done in the Chronicle that has been published, I would like to concentrate on what seemed to me to be the main problems and the main principles.

## Basic Issue

First, let us look at the basic situation of the Anderson case. There are basically two parties involved. The students who have laid a charge of racism against Professor Anderson and Professor Anderson himself. It is a normal procedure in universities when a serious charge is laid against a member of faculty to have this investigated and to have it investigated by a hearing committee. It is commonly suggested that such a hearing committee, to investigate the conduct of a faculty member, should be made up of his peers — that a man should be judged by his peers, that is, by other members of faculty. And it is also usual for such a hearing committee to be appointed either by a responsible body or by a responsible officer of the University.

In our structure, perhaps, by the Principal, perhaps by the University Council, perhaps by the Faculty Council. As it happens, the Association of University Teachers in this University has in recent months been developing a set of principles which are essentially along these lines, which have now been approved in principle by University Council but were not approved on December 5 when this matter broke. They were approved at the December 20th meeting of University Council. However, although they were not approved they were certainly drafted and well advanced by December the 5th and an attempt was made to conduct this affair as far as possible in line with that document. It was not possible to literally apply that document to the situation because the affair itself had originated much earlier and there was a certain past history which was inconsistent with a literal application of the document. None the less this was a guiding factor in the events that followed. To this point, what I have said is fairly much in the abstract, and might apply to any university.

## Consent by Both Parties

In this particular case, however, there is an additional factor, and this is the idea of agreement by both parties, which has been very much present in the discussions of the past week. And since this is a central part of the situation I would like to read to you, and in fact, I'm going to read rather extensively from this Chronicle of Events that was published on Tuesday, because the purpose of this Chronicle — which was established by persons who were not involved in any of the events themselves — the purpose of this Chronicle was to try to clarify these events.

It's Item 9 that I'm reading which is the summary relevant to this particular situation made by that Committee, and what they say is this, after summarizing many events of that day, December 5th. It is in fact I guess the December 5th date that I'm alluding to here: "It is to be noted that (a) the proposed SGWUT procedures include no provision for consent by the concerned parties on questions of procedure, including the naming of the Committee; (b) none of the parties involved on December 5 entered into a formal written agreement requiring mutual consent to the naming of a hearing committee, or its procedures; (c) however, in accepting the changes in the committee membership suggested by the Black students, during the course of the day on December 5th, and in consulting Professor Anderson about the personnel changes, a precedent may

have been set leading the parties to believe that their approval would be sought at each stage of the process.

Clearly, that expectation is one of the issues at the present time. Will you note, however, that the concept that agreement by both parties is necessary to establish a committee or to arrange replacements for the committee, in effect, gives a veto to either party over the committee membership. If unanimous agreement is necessary and unanimous agreement is not reached, then the logic of that statement is that nothing can be done.

Now, the application of this issue has come in terms of two sets of changes or attempted changes in committee membership. These are quite separate and distinct. The first concerns the attempted replacement of Prof. Marsden; the second concerns the resignation and replacement of Profs. Bayne and Davis. Now, I want to, first of all, read the relevant items from the Chronicle, and then to comment on what appears to be the main point.

## Marsden Tenders Resignation

For the Marsden situation, we begin on January 10th, Friday Item I: "Prof. Marsden submits his resignation from the Hearing Committee to Dean Madras in the Dean's capacity as Chairman of the Science Faculty Council. Prof. Marsden says he wishes to be free as President of SGWUT to initiate a review of the responsibilities of faculty, forms of prejudice, and the role of administration in such affairs. He urges that if a replacement is to be found for him, such replacement should be acceptable to the students and to Prof. Anderson in the spirit of the original agreement on December 5."

We go next to Wednesday, January 15th. The events recorded here, however, relate to January 10th, the same day as Marsden's attempted resignation, but are listed under the 15th because this is from a memorandum dated the 15th. The hearing committee receives a memorandum of record written and signed by Mr. Michael Sheldon, describing his impressions and those of Acting Principal Clarke regarding the meeting in the Faculty Men's Lounge on January 10th. This was the meeting at which the students presented their written accusations. This memorandum states: (a) that the Black students now take the position that a hearing committee, consisting solely of faculty members is wrong, but admit that they agreed to such a committee earlier."

Now, Thursday, January 16th. "Complainant Black students present the following demands to Prof. Adamson, Chairman of the Hearing Committee: (a) the hearing is to be held on January 26th, and completed that day; (b) Mr. L. Bertley to replace Prof. Marsden on the Committee."

Mr. Bertley is a student (c) the hearing is to be open; (d) decision to be made within one day; (e) the following to be called to give evidence — Dean Madras, Joan Richardson, and Dean Flynn. Item II: Prof. Adamson agrees with the Black students to arrange a meeting with Principal Clarke, the Hearing Committee, and the Black students to discuss these new conditions. That was Thursday.

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## O'Brien...

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Now, Friday, January 17 — Prof. Adamson is presented with another set of conditions by the Black students, as follows: (a) Mr. L. Bertley is on the Hearing Committee. The wording, I should emphasize, is essentially taken from the document, the letter, which was handed in. The Hearing Committee is set for 2:00 p.m., January 26th. It will be open. Dean Madras, Dean Flynn and Miss Richardson will be present; judgement will be on the same day.

Next, Saturday, January 18th. (i) Prof. Adamson writes a letter to Acting Principal Clarke in which he states that the Committee has agreed on Prof. Knelman as a replacement for Prof. Marsden, and that Acting Principal Clarke should contact both parties to obtain their consent; (ii) the Hearing Committee meets and (a) rejects those conditions of the Black students, which were presented as non-negotiable (this is not mentioned above in the Chronicle, but the clause was added to the demands of January 17th, I believe, that these requirements were non-negotiable); (b) advises Acting Principal Clarke and Vice-Principal O'Brien to assume ultimate authority in the Anderson case, particularly with reference to a replacement for Prof. Marsden; and (c) decide to try to arrange a meeting between all the parties.

I should now add here a further event which does not appear here in the Chronicle, presumably because the Committee was not able to run it down at the time. It is at about this period, that at the request of Prof. Clarke, and acting simply as his representative for this purpose, I wrote a letter to Prof. Anderson and to the Black students asking them to agree to Prof. Knelman as a replacement for Prof. Marsden.

This letter was duly sent out. I received, in due course, a verbal assent from Prof. Anderson. I never received, myself, any reply from the Black students.

And finally, in this sequence, Monday, January 20th, Item IV: SGWUT Council votes to relieve Prof. Marsden of his executive duties and responsibilities in any matter connected with the Anderson case, in order to create the proper conditions for his continuation on the Committee. What, in fact, happened, was that Marsden wished to resign in order to keep himself free within the essence of the SGWUT framework for any eventuality that may arise, an attempt was made to replace him with Prof. Knelman. The students, however, insisted that a student should be the replacement. Attempting to get agreement was not going forward very well, and in order to resolve this particular situation, it turned out that different direction was taken. The SGWUT Council formally relieved Marsden of any SGWUT connection, actual or potential, in this matter; so, in effect, he was placed in a position to withdraw his resignation, which had in fact never been accepted, and in consequence, Marsden remained on the Committee, and the attempts to replace him with Knelman became a dead letter.

### O'Brien comments

Those are the events surrounding Marsden. Now, my comments. First, the student complainants expected the Hearing to begin on Sunday, January 26th. This was one of their demands which I read at a certain point, and although it doesn't appear in the Chronicle, in fact, Anderson also wanted the Hearing to begin as soon as possible.

The second point: the students insisted on a student replacement for Marsden, Mr. Bertley, contrary to the original structure of the Committee, which was made up of five faculty members. And, the third point, the attempt to replace Marsden in terms of the initial understanding of agreement by all parties, ran into conflicting demands in a broad sense, as early as January 10th when the desirability of having student members on the Committee was raised by the Black students; in a more specific manner on January 16th, when a specifically named student was demanded as a replacement for Marsden.

### Bayne and Davis Resign

Now, let us turn to the resignations of Profs. Bayne and Davis, again beginning with the Chronicles, still on Monday, January 20th, the same day that the SGWUT Council relieved Marsden of his duties and it became possible for him to remain a member. Item 6: The Hearing Committee received an invitation from the Caribbean Students Association to their own hearing on the Anderson case, on Sunday, January 26, 1969, at 2:00 p.m. This letter also states that Profs. Adamson, Bayne and Davis are incapable of judging the case impartially, and that the Black students have decided that these members should be replaced by Mr. L. Bertley and Miss M. St. Jour. Tuesday, January 21st, Item II: At the meeting between the Hearing Committee and the Black students, Prof. Adamson informed the students that the first hearing would be

held on the morning of January 26th. The Hearing Committee and the Black students are unable to agree on Prof. Anderson's right to be represented by a solicitor. Profs. Bayne and Davis defend Prof. Anderson's right to legal counsel; the students vociferously refuse to continue the meeting, and depart.

Next day, Wednesday, January 22nd, Item I: at 9:00 a.m., Profs. Bayne and Davis inform Prof. Adamson that they have resigned from the Hearing Committee. In their letter of resignation to Acting Principal Clarke, Profs. Bayne and Davis state their decision that the Hearing Committee, as a means of providing a solution to this problem, proved ineffective. They also state that their resignation should not be regarded as signifying a rift within the Committee. Item II: the remaining members of the Hearing Committee recommend to Acting Principal Clarke and to Vice-Principal O'Brien that, (a) Profs. Bayne and Davis be replaced immediately, and (b) the planned Sunday hearing, January 26th, go on as scheduled.

### Immediate Hearing Needed to Assure Due Process

Item III: at a meeting of department chairmen of all faculties, and I should mention that that meeting wasn't called for any purpose to do with this case. They simply happened to be meeting that afternoon for another purpose. Vice-Principal O'Brien announces the resignation of Professors Bayne and Davis and assures those present that, in order to assure due process, Acting Principal Clarke is replacing Professors Bayne and Davis.

Thursday, January 23rd, Item 2: In the late afternoon a letter from the Black students dated January 20, 1969, is delivered to Professor Adamson's office. Black students refuse to accept the hearing on the grounds that the constitution of the Hearing Committee has been unilaterally decided upon by the administration: a decision not in conformity with previously agreed upon procedure. Friday, January 24th: Professor Adamson writes to Mr. Mossop of the Black students in care of the Caribbean Students' Association, stating that the Hearing Committee does not have the right to alter its composition and cannot fulfill the Black students' requests as stated in their letter of January 20th. Saturday, January 25: letter from Acting Principal Clarke to Professor Adamson formally appointing Professors F. Knelman and J. Macdonald to the Hearing Committee. The following day the hearing begins.

### O'Brien Comments

Now, my comments on that sequence of events; first, on Monday January the 20th, two days before Professor Bayne and Professor Davis resigned, the Black students denounce these members of the Committee as being unsatisfactory to them. Second, similarly, two days prior to their actual resignation, the Black students insist that they be replaced by two students. Third, on Wednesday, January 22nd, Bayne and Davis resign and the hearing is to start Sunday, January 26th. At that point, if the hearing is to commence, and both the Black students and Professor Anderson have earlier emphasized the desirability of proceeding on that date, the Committee must move swiftly to establish its procedures — a task that has been delayed because first of uncertainties about the Committee membership, and second because the Black students have not attended certain meetings called by the Committee. This again can be traced through the Chronicles, but I don't think I need to read another sequence of events, this is a subsidiary point.

These, then, are the circumstances in which the Principal moved to re-establish the Committee and enable the hearings to go forward on Sunday, January 26th, by appointing Professor Knelman and Professor Macdonald as members of the Committee.

### Guiding Principles

I now wish to move to a new topic: the principles that have been pursued by the University in attempting to forward the dealing with this case. One is that the University will not tolerate the practice of racial discrimination within this University. Another is that these students, or any students who make a serious charge, are entitled to have their charge fully investigated. A third principle is that Professor Anderson, or any other person against whom a serious charge is made, is entitled to have a full hearing — that Professor Anderson is entitled to a full hearing with the normal protections such as the advice of counsel available to him. And, finally, that Professor Anderson is also entitled to have the hearings continue so that his own personal position will be resolved one way or the other, so that there will be a finding either conviction him or relieving him of this charge; that he should not be expected to continue indefinitely without a resolution of the affair.

### Choices to resolve crisis

Now, if we are to proceed, what are the alternatives that are available? I am now going to discuss the framework within which the matter is now moving and the various ways in which it can continue to move forward. One alternative is to continue with the present hearings. The stages involved are these: a continuation of the hearings themselves, at which the Hearing Committee receives whatever evidence is to be presented; next, the deliberations of the Hearing Committee, where they withdraw to analyse the evidence and to decide what their recommendations will be; next, the presentation of their report with its recommendations, which will be sent to me; next, it is for me to deal with their recommendations in whatever way may seem best to me at that time. Finally, and this is the point to be emphasized, there is the possibility of an appeal, an appeal to the Acting Principal, which may be made either on the jurisdiction of the Hearing Committee — if either of the parties to the dispute believe that the Hearing Committee is improperly constituted, they can lodge an appeal based on that matter and the jurisdiction would then be adjudicated. Or an appeal may be lodged against the recommendations of the Hearing Committee, that is alleging that the recommendations do not reasonable follow from the information that was obtained at the hearing. Or, third, an appeal can be made against the action taken on the report, that is an appeal that whatever action I might take is not reasonable in the light of the report and the circumstances.

And the Principal has stated, and it has been stated publicly, that the appeal will be referred to a tribunal of three eminent and qualified Canadians from outside the Sir George Williams University community, that is, the appeal, if we come to an appeal, will go outside. There then is one of the possibilities that lie before us.

A second possibility is negotiation among the interested parties looking for a resolution outside of a formal hearing which is acceptable to them all. And here I should point out and emphasize that the prime parties to this situation are the student complainants and Professor Anderson. The students have laid a complaint against Professor Anderson — this is the basic situation from which the whole affair takes its beginning. The University arises as a party by virtue of the fact that such a charge having been raised within the University community, the University must then forward its resolution in some way or another. There is nothing to prevent the interested parties, quite outside of the formal hearings, even simultaneously with the hearings going on, from conducting negotiations among themselves.

In fact, to emphasize this point, there arises the question about the agreement about the membership of the Hearing Committee. The original agreement on the membership of the Hearing Committee, if there was one, was presumably an agreement between the students and Professor Anderson. They were the parties who on December 5th were making an agreement about five names to belong on that Committee.

### Discussion diverted from main problem

I would suggest to you that in recent discussions of this matter the central position of Professor Anderson tends to be frequently overlooked, and the matter is presented as a confrontation between the students and the University. But it isn't the University that the students accused of racism, nor did the University accuse the students of anything. Basically the matter arose between the prime parties of the student complainants and Professor Anderson.

Therefore it would not be possible nor would it be right for the University to attempt by some kind of bilateral arrangement with the students to resolve the interest, to resolve the issue rather, without the participation of Professor Anderson. Now, the University lawyer is ready at any time to participate in discussions of that sort, and we have stated this on earlier occasions. In fact, a meeting between the students' lawyer and the University lawyer did take place earlier this week. These negotiations however did not succeed in getting very far. In particular the students' lawyer was not able to present, or produce to the University any statement showing that he was authorized to speak for his clients, and in fact he left Montreal the next day.

Presumably, he was from out-of-town, and presumably he had commitments that he had to return to.

Now, in this matter of an authorization to negotiate, it should be remembered that giving the right to negotiate does not, or at least, need not, interfere with the right of the prime parties to give (or withhold) their free and full agreement to whatever the end result of the negotiation may be. And I would also like to mention that, because it falls into the same kind of framework and creates the same sort

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# It would be so simple if...

What we've got here is a failure to communicate". a line for our times from COOL HAND LUKE, starring Paul Newman.

On December 5, 1968, all parties to the Anderson case thought they had an agreement on the composition of a committee to hear evidence; yet today, only eight weeks later, that consensus lies shattered at our feet and few people know why. With all the explanations that have been offered, these is still one that has not been fully explored - the possibility of recurrent misunderstandings between the complaining students and the Hearing Committee. There are at least four cases which support this interpretation.

December 5, 1968

## (1). December 5, 1968: When is an analogy a threat?

The SGWAUT Council selected Sociology Professor Taylor Buckner and Professor Michael Marsden, SGWAUT president, to inform the black students occupying Biology Professor Frank MacLeod's office of the Faculty Association procedure for dealing with complaints against Faculty members. As they entered Professor MacLeod's office, Buckner was trying desperately to think of some cogent way to show the students how unfair was their demand that Prof. Perry Anderson be fired immediately and without a hearing. At last Buckner thought of a way. "Look", he said, "anybody who is going to lose his job ought to have a fair hearing. You wouldn't like it", he continued, "if a Black professor, like Professor X (a Black faculty colleague) was to be fired in half an hour, just on the

say so of a half-dozen white students". The analogy seemed obvious to Professor Buckner, but it was misinterpreted. He was accused of trying to intimidate the students with threats against a Black professor. The point about due process was lost until Professor Chet Davis arrived to re-establish communication with the students. To this day, many of the Black students are convinced that Professor Buckner's effort to illustrate the need for due process through an analogy was actually an attempt to intimidate them. Under the tense conditions in Professor MacLeod's office, Buckner's words simply lost their meaning.

## (2). January 16 and 17, 1969: Is the Agreement of December 5th for Everyone?

Professor Michael Marsden had tendered his resignation from the Hearing Committee so that he could investigate the early handling of the Anderson case and it looked as if a replacement was going to be needed. On January 16, some of the complaining Black students nominated a man to replace Professor Marsden. He is a high school teacher and student of substantial academic achievement and intellectual achievement and intellectual ability. Professor Adamson offered to arrange a meeting between the Black students, Professor Anderson, Acting Principal Clarke, and the Hearing Committee for the purpose of giving both parties an opportunity to agree on a replacement. The students agreed. The next day, January 17th, the students returned to Adamson's office and presented a written declaration that the nominee in question was on the Hearing Committee. There would be no meeting with Professor Anderson or the Acting Principal, the students declared. Yet the complaining students had not sought and obtained Professor Anderson's consent for the appointment of their nominee.

They became the first to violate the spirit of the December 5th agreement and did so in two ways: (1) by refusing to consult Professor Anderson and (2) by insisting on the appointment of a Committee member who was not a faculty member.

## (3). January 21, 1969: The Charge of "Rigged" Hearing Procedures

Three of the complaining Black students attended a meeting of the Hearing Committee to discuss the Committee's proposals regarding procedures for the formal hearings. They had missed the session scheduled the day before. On the previous day, the Hearing Committee had proposed hearing procedures to Professor Anderson and his attorney. At the meeting of January 21st, members of the Hearing Committee mentioned to the students the fact that Professor Anderson and his lawyer had not objected to the procedures. The complaining students took this to mean that Professor Anderson and his attorney had designed the procedures and that the procedures were rigged against them. The Hearing Committee felt that this was an unreasonable interpretation of their actions.

## (4) January 21, 1969 (continued): When Does a Statement of Probability Become a Threat?

The meeting of January 21st was held under very tense circumstances. On January 20th, the Caribbean Students' Association had already announced that Professor Adamson, Bayne and Davis were incapable of hearing the case impartially, and that the Association was holding its own hearing, at which the latter men would

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## The Computer and the People

At the Faculty meeting held on Saturday February 1st, during the question and answer period, Vice Principal O'Brien in answer to a question, expressed himself in the following way:

We live in a contentious era and the Universities are contentious beyond most other institutions, and we can find about us many universities and colleges which have responded to this contention in a variety of ways and have not always fared well as a result. I would suggest one thing, that an attempt to deal with whatever the present symptom may happen to be, whether it is the occupation of a computer centre, or something else, may sometimes be exactly the right thing to do, and may sometimes be the wrong thing to do, and it therefore becomes a matter of someone's judgement as to exactly what is appropriate at a given time. We are attempting to exercise this judgement in the way that we hope will ultimately be to the best benefit to the University.

This is a perhaps uselessly general a statement, but it seems to me, for example, that right now it's more important for the University community to understand what is involved in the Anderson affair, than it is to spend all our time on the computer centre. This may not always be the case. I think that in this direction lies the ultimate resolution of this kind of issue, that is if it is to be resolved without creating a permanent schism on the campus and leave behind it a legacy of misunderstanding.

Frank Chalk has been able to point out minor incidents of misunderstanding that have probably contributed in no small measure to the present situation and the events of the past week have led to a very great deal of misinformation being spread about on a wide variety of points. Here lies a very large responsibility upon the faculty, the stage we are at now is that the faculty must see what it is that is going on in the University. Why things evolved in this way? They must make up their own minds as to their attitudes towards it. Obviously, and understandably, in the past week there has been a lot of confusion based on a lot of misinformation and a lot of lack of

information. Well, I hope that today's meeting provides some information - it would have been better had this meeting been held earlier, for various reasons, which it would serve no useful purpose in my opinion to dwell on right now - this did not happen. I think there must go out, at about this time from this meeting and through other channels, an understanding of the way, the channels, the process, in which this situation can be resolved, because I believe it can be resolved. There are no basic or structural hindrances to it being resolved that I can see. But it won't necessarily be resolved unless the effort is made to do it, and it's not just up to the parties to the dispute, and it's not just up to the administration - ironically, as a matter of fact, part of the University used to be referred to as 'the' administration has absolutely nothing to do with the Anderson affair. It's the academic administration, if you like, it's the Principal, and Academic Vice-Principal and the dean and the department chairmen - these are the only administrators of any description that you can really find in this whole process.

So I think that this is an issue which for many complex reasons, has flowed through the whole University community and the whole University community has got to understand it, and understand that it is not a lot of bad-will on both sides that has led to this situation. It's maybe mistakes, maybe misunderstandings, and it's maybe inefficiency, and maybe even is a certain amount of ill-will. Who can say definitively at this stage in the investigation?

What I've tried to do in the past week is at all cost, keep the channels clear that can lead to an ultimate resolution, and I've suggested that there are two channels which were not very clear, perhaps, in the early part of the week when there was a lot of confusion. But the channels are still there, nothing that has happened has blocked those channels and if the University community can now push for some movement in those channels, then I think we may get some kind of resolution. If the University community does not, then it will be far more difficult.

## "Chronicle" Additions

When the Chronicle was written, regrets were expressed by a number of the group who volunteered to work on it that we had had no opportunity to consult with either Professor Perry Anderson or the Black students, the two parties to the dispute. We were also aware that, given the limited time available to us to contact people with relevant information and to compile the document, there would almost inevitably be some omissions and perhaps some errors. Some of these have already come to light, and others may be forthcoming. There has been an indication of willingness both on the part of Professor Anderson and the Black students to remedy the errors and omissions, and the Chronicle may be amended when these are received.

In the meantime, Professor Chet Davis has offered some amplification and corrections with regard to the Chronicle for December 5, item 6. On the basis of what he said, the item would be more accurate if it read:

"6. In a meeting comprising Principal Rae, Vice-Principal D. B. Clarke, who has assumed responsibility at Principal Rae's request, Dean Flynn, and Professors Anderson, Marsden and Davis, Professor Marsden proposes that a hearing process be instituted, conforming, in so far as possible, with the procedure recommended by S.G.-W.A.U.T. Vice-Principal Clarke agrees, and the names of five faculty members are suggested by the group and agreed to by Professor Anderson."

Three omissions were pointed out by Vice-Principal O'Brien in his statement to faculty on Saturday, February 1: December 20 S.G.W.A.U.T.'s "Procedures for Dealing with Complaints Against Faculty Members" were approved in principle by University Council.

January 17 At the end of the second set of conditions presented to Professor Adamson by the Black students was the statement that the five conditions were non-negotiable.

After January 18 (at an as yet undetermined date) Vice-Principal O'Brien, representing Acting Principal Clarke, in accordance with the Hearing Committee's expressed wish that he contact both parties to obtain their consent, wrote letters to Professor Anderson and the Black students, proposing Professor Knelman as a replacement for Professor Marsden. Vice-Principal O'Brien received verbal assent from Professor Anderson, but had no reply from the Black students.



**So Simple...**

Continued from page 6

**(4) January 21, 1969 (continued): "When Does a Statement of Probability Become a Threat?"**

be replaced by Mr. L. Bertley and Miss M. St. Jour. As differences continued in the meeting of January 21st, the Black students in attendance threatened to boycott the official Hearing Committee. Professor Adamson pointed out that this would deter the cause of justice.

Three of the complaining Black students have signed a statement declaring that Adamson threatened to wipe Professor Anderson's slate clean if they did not attend the hearing and was seeking to intimidate them. "Professor Adamson's conduct was not befitting one of his position on the Committee", so they walked out of the meeting with the Hearing Committee. Yet Adamson was simply trying to demonstrate that on the basis of their own assumption that Professor Anderson was guilty of racial discrimination, they would be well advised to participate in the hearings. His meaning was lost.

**Conclusion**

Throughout the past eight weeks, some of the Black students accusing Professor Anderson of racial discrimination have acted upon the view that people are trying to intimidate them. There may have been times when some of those among us gave them that impression. Yet each of the persons who is accused of trying to intimidate the Black students is dedicated to the elimination of any form of racial discrimination which may be proven to exist in this University. And each of the persons so accused has demonstrated this commitment to his colleagues long before this incident arose. Is it not time then, that all of us, including those who have supported the Black students, should say to them - "Perhaps you have misunderstood". There are many who stand ready to re-evaluate their current view of the complaining students' intentions, and would gladly accept the Black students' definition of their objectives at face value, if they would simply give the established Hearing Committee a chance to hear all the evidence against Professor Anderson.

In the first century B.C., Cicero said: "Freedom is participation in power". Negroes should never want all power because they would deprive others of their freedom. By the same token, Negroes can never be content without participation in power.

Martin Luther King  
Where Do We Go From Here?  
Chaos or Community?

Orderly protests are far from non-aggressive; on the contrary, they require that every participant be fully responsible for curbing his own temptation to act aggressively, and also be helpful to those who do not have good enough control.

Dr. Bruno Cormier  
The Art of Orderly Protest  
The Montreal Star, November 30, 1968

There are, of course, many real differences between the Negro and other groups in this country, including the traumatic impact of slavery. He is, nevertheless, involved in much the same historical process experienced by all groups, with varying success, in attempting to "make it" in American life.

The idea that he faces a monolithic white world uniformly intent for racist reasons on denying him his full rights as a man is not only naive, but damaging to the development of strategies which can lead to a necessary accommodation. It does not good - it does harm - to keep pointing the finger of guilt either at Americans in general or at special groups, when what is needed are methods for dealing with the real needs and fears of all groups.

Murray Friedman  
Is White Racism the Problem?  
Commentary, January, 1969

Language that says too much, indignation that finds no target and spills all over the landscape raises people's tempers and adds to the climate of anxiety and violence.

When words lose their meaning, actions lose their true proportion. If everybody is so wicked, so implicated in a web of collective guilt, the distinction fades between one man's honest effort and another man's malingering.

Charles Frankel  
The Meaning of Political Murder  
Saturday Review, June 22, 1968

If you call a man a bug, it means that you propose to treat him as a bug. Whereas if you call him a man, it means that you propose to treat him as a man. My profession is to study men. Which means that I must always call men by their name; always think of them as men; yes, and always treat them as men. Because if you don't treat men as men, they don't behave as men.

Aldous Huxley  
Eyeless in Gaza

**Black Students' Demands**

- 1) That the Hearing Committee and its subsequent proceedings be totally and publicly rejected.
- 2) That the Administration arrange a meeting of themselves, Prof. Anderson and ourselves to settle the composition of a Hearing Committee, the procedures under which any such hearing will be conducted and the date and time of such a hearing.
- 3) That any such meeting with the Admi-

nistration be held in an atmosphere free of all threats of reprisals and other punitive measures, juridical, educational or otherwise.

- 4) That due considerations be given to those Caribbean students who have lost study time due to their brotherly devotion to this case over the last few months.
- 5) That all criminal charges of all Black students be dropped immediately.

dissolved, and that it should conclude its hearings and publish its findings. If subsequent events or subsequent discoveries demonstrate more clearly than is now apparent that the existence of this Hearing Committee is more unjust than just, then there is a perfectly legitimate safeguard open to all parties concerned.

I refer here to the safeguard described in the letter dated

January 24, 1969, from Acting Principal Clarke to Professor Adamson stating that, "in the event of an appeal from the decision of the Hearing Committee to the Vice-Principal (Academic), the Acting Principal is willing to establish an appeal committee composed of well-known persons from outside the University, and of proven integrity".

If in the end the complainant

students and their Black and white supporters are correct, then they have the Acting Principal's written pledge that JUSTICE WILL BE SERVED BY AN APPEAL COMMITTEE COMPOSED OF WELL-KNOWN PERSONS FROM OUTSIDE THE University. It is my own view that the present Hearing Committee will adequately serve the ends of justice; but those who cannot bring themselves to

believe this, have now a guaranteed right to appeal.

Are there grounds for optimism? I do not know. Can those of us who are not directly involved persuade the disputants to acknowledge that good motives exist on both sides? If there is to be a resolution of the present impasse, mutual recognition of good faith is, I submit, the necessary starting-point.

**SGWAUT Motions**

Resolutions of the Council of the SGWU Association of University Teachers (taken from the minutes of the SGWAUT Council).

Tuesday, January 28

Whereas the SGWAUT Council, after an assessment of the events of the last few weeks and despite its reservations about certain of the administration's responses to the present crisis, continues to have confidence in Dr. O'Brien's capacities as Vice Principal (Academic).

Be it resolved that a General Meeting of the SGWAUT be held as soon as possible and that at this meeting the membership be asked to give Dr. O'Brien a further vote of confidence.

Motion carried unanimously.

Thursday, January 30th

That the SGWAUT Council express its full confidence in the impartiality of the Hearing Committee in its hearing of the Anderson case.

Motion carried with one abstention.

Friday, January 31st

SGWAUT Council is deeply concerned that the rights of all parties to the current controversy within SGWU be preserved. We are firmly convinced that the only way this can be achieved is in an impartial and orderly manner consistent with due process.

Motion carried unanimously.

**Clarke's Statement**

The Hearing Committee into the charges of racism laid against Assistant Professor Anderson of this University resumed its hearing on Wednesday, January 29, and were disrupted by a mob which included the complainants against Professor Anderson. There followed the seizure by the mob of the University Computer Centre. It should be noted, however, that at no time were the police called in to deal with this situation. In view of what has occurred I wish to set out both the principles which have guided the University hitherto, and the position that it is taking.

All members of the University community share the responsibility to seek a just resolution of the questions which now face us. Such a resolution must be based upon three principles:

1. Racial discrimination has never been and cannot be tolerated in this University.
2. Any charge of racism must be investigated and resolved with proper process. It must also be made evident that justice has been done.
3. The university community must function within the rules of law.

In line with this statement of principles, the University has established the following position:

1. The Hearing Committee, a committee set up by my authority, will continue its work. Its sessions will resume shortly.

Douglass Burns Clarke

Acting Principal and

Vice-Chancellor

**Status...**

Cont'd from page 3

frankly admit that there are arguments on both sides. The crucial question then becomes, should the Hearing Committee now be dissolved, in light of the facts and interpretations listed above?

My own opinion is that the Hearing Committee should not be



**O'Brien...**

cont'd from page 5

of problems, that the most recent communication received from the Black students transmits five demands, the ones that were printed in the one-page issue of "The Georgian" recently, and states, "It must be clearly understood, that (and there follows a name of the faculty member who transmitted the message) has neither the power to negotiate nor to make any decisions.

**Negotiation channels are open**

Now the University is prepared to discuss at any time through lawyers representing the parties an equitable resolution of the situation. The University will pay the costs of legal representation for all parties to any such discussions, as it has already undertaken to do throughout this affair in particular with regard to the appearance of the parties before the Hearing Committee where the University is meeting the legal costs involved on all parties.

However, it must be remembered that if such discussions are to be successful, they must include Professor Anderson's legal counsel as well, because Anderson is a prime party to this affair; and the outcome must be acceptable to Professor Anderson as it would have to be acceptable to the students and to the University to the extent the University has a residual involvement. But there is a second alternative which exists independently of and in parallel with the continuation of the Hearing Committee, which has been there throughout this situation which has been started upon but never got very far, on at least one occasion.

**Third choice**

There is another alternative that I would now like to discuss. I don't want to put it in parallel with these others

because I'm going to suggest that this is not an alternative which offers much possibility of success. But it is a possibility that has been frequently discussed in the past week, and it should be analysed at this time. This is the replacement of the present Hearing Committee by another one. I must agree that this is theoretically possible and could arise from the kind of negotiations that I've just discussed. If the students and Professor Anderson were to get together and they were to agree that a different sort of Hearing Committee with a different named membership would be the thing, then it is conceivable that the substitution could be made. But this implies that the details are worked out, the agreement is there, and then at that point a substitution is made; and meanwhile the existing Committee remains in being. That is not the form in which this proposal has been circulating during the past week.

The common form of the proposal has been that the present Committee should be dissolved, and then an attempt should be made to negotiate the membership of the new Committee on the basis of agreement among the parties concerned. Now, that particular variation is not an acceptable or a possible one, because in the first place if an agreement were not reached, if the parties involved were not able to agree on who should be member of a Committee and what his terms of reference should be, then the existing Committee having been dissolved, there would be no Committee in being to deal with the complaints against Professor Anderson. And secondly, and very closely related to this first point, the experiences related to the attempted replacement of Professor Marsden and around the resignations of Professors Bayne and Davis illustrate the problems involved in such negotiations. Details of those problems are what I covered in the earlier part of this statement. Now, I cannot speak for Professor Anderson and say whether he would be willing to see the present Committee dissolved, in the expectation that negotiations would then produce another one acceptable to him, but I must re-emphasize the fact that he is a party to this Committee and the variations of this proposal which have reached

me tended to forget that. They have reached me by the score I can assure you. You have been getting through. The variations on this proposal that have reached me tend to be essentially proposals that the University and the Black students should get together, either ignoring Anderson completely, or playing down his role substantially, and that is not the situation. So I suggest to you that that alternative will not work.

The question then is, 'Where do we go from here?' There are two alternatives, and I've covered them already, but they should be repeated. The first is that the Hearing can proceed and the University community should remember that the appeal procedure provides the possibility of an external, independent review of all aspects of the matter, including the status of the Hearing Committee itself, if any of the parties wish to use it; and secondly, is the second alternative, that negotiations among the lawyers representing the various parties, with the University covering the costs involved, can seek an alternate solution. The University stands willing to co-operate with the two parties involved - with Anderson and with the students - within this framework, to seek a just and an equitable solution to this unfortunate situation.



Following Dr. O'Brien's address, a number of questions were directed to Dr. O'Brien. A transcript of these questions and their answers will be published in their entirety shortly.

At the conclusion of the questions, Professor David McKeen offered to express the sentiment of the whole meeting and stated:

"Throughout an extremely difficult period, Vice-Principal (Academic) O'Brien has acted with intelligence, courage, and honor".

This statement was received by a standing ovation. There were 400 members of Faculty present.

# The Legal Charges: The Facts

**At the Faculty meeting held in H-110 on Saturday February 1st, during the question and answer period which followed the statement by Vice Principal O'Brien, a question was asked concerning the matter of the legal charges against three students.**

**In his answer Vice Principal (Academic) O'Brien made the following points: (this list of the points is slightly amplified by points he made on other occasions):**

- 1. The question is now before the courts, and, legally, the events that led to the charges cannot be discussed. The courts will decide ultimately one way or the other.**
- 2. The charges were not made by the university.**
- 3. The complainant is one individual affected by the situation. This individual, of course, is Dr. O'Brien.**
- 4. Once before the courts, the charges can be withdrawn only with the consent of the court. Should Dr. O'Brien decide to withdraw the charges, it is difficult to obtain the consent of the court, but it is possible.**
- 5. Dr. O'Brien fully expects the question of these charges to be raised during the course of any process of serious negotiations**
- 6. Dr. O'Brien has no personal antipathy toward the students involved in these charges but must emphasise, that, the charges being now before the courts, it is not in his power to withdraw them unilaterally.**
- 7. In order to protect the interests of the three students, who after all, now have charges against them before a court, the University wishes that the Black students would indeed retain the services of a lawyer (at the University's expense) since the help of counsel could be crucial in order to settle all the delicate legal points which might be involved in a settlement satisfactory to all.**